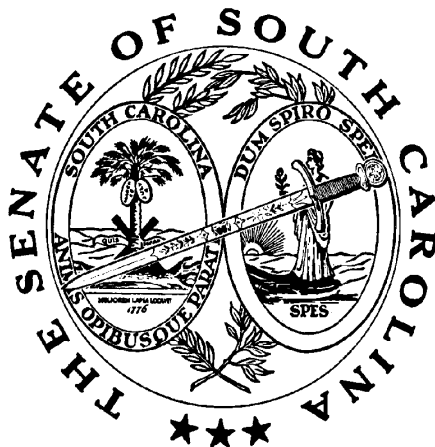


NO. 17

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2009

TUESDAY, FEBRUARY 17, 2009

Tuesday, February 17, 2009
(Statewide Session)

~~Indicates Matter Stricken~~
Indicates New Matter

The Senate assembled at 12:00 Noon, the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

The prophet, Ezekiel, wrote:

“The hand of the Lord came upon me, and he brought me out by the spirit of the Lord and set me down in the middle of a valley; and it was full of bones.” (Ezekiel 37:1)

Let us pray:

Holy Lord, we are so terribly aware of our human limitations; there is only so much that we ourselves sometimes can do. But trusting in You, holding fast to the promises You give us, using the wisdom and talents You have bestowed, we can strive to help bring about tremendous change. So breathe on us, O God, as you did upon those dry bones, and give us hope for new life here in South Carolina—especially during these days of unsettling economic prospects and of ever-present frustrations and concerns. May each of these Senators, trusting in You, truly feel themselves renewed by Your grace and strengthened by Your power. In Your loving name we pray, Lord. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

Point of Quorum

At 12:15 P.M., Senator MULVANEY made the point that a quorum was not present. It was ascertained that a quorum was present.

The Senate resumed.

REGULATION WITHDRAWN AND RESUBMITTED

The following was received:

Document No. 3199

Agency: Department of Health and Environmental Control

SUBJECT: South Carolina Trauma Care Systems

Received by Lieutenant Governor April 25, 2008

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Referred to Medical Affairs Committee
Legislative Review Expiration April 1, 2009
Withdrawn and Resubmitted February 12, 2009

Doctor of the Day

Senator SETZLER introduced Dr. William Ward of West Columbia, S.C., Doctor of the Day.

Leave of Absence

On motion of Senator MASSEY, at 3:30 P.M., Senator SHEHEEN was granted a leave of absence for the balance of the day.

Leave of Absence

At 3:30 P.M., Senator JACKSON requested a leave of absence for the balance of the day.

Leave of Absence

At 5:10 P.M., Senator COLEMAN requested a leave of absence for the balance of the day.

CO-SPONSORS ADDED

The following co-sponsors were added to the respective Bills:

S. 398 Sen. Shoopman
S. 319 Sen. Malloy
S. 347 Sen. Verdin

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 425 -- Senator Cromer: A SENATE RESOLUTION TO RECOGNIZE AND CONGRATULATE PALMETTO HEALTH HOSPICE ON THE OCCASION OF ITS THIRTIETH ANNIVERSARY OF CARING, COMPASSIONATE SERVICE TO SOUTH CAROLINA PATIENTS AND FAMILIES AND TO ENCOURAGE CITIZENS TO INCREASE THEIR AWARENESS OF THE IMPORTANCE AND AVAILABILITY OF HOSPICE SERVICES AND TO OBSERVE THIS OCCASION WITH APPROPRIATE ACTIVITIES AND PROGRAMS.

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The Senate Resolution was adopted.

TUESDAY, FEBRUARY 17, 2009

S. 426 -- Senator L. Martin: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 20-1-110 SO AS TO PROVIDE THAT COMMON-LAW MARRIAGE IN THE STATE MAY NOT BE RECOGNIZED ON AND AFTER JANUARY 1, 2010, AND TO PROVIDE AN EXCEPTION FOR A COMMON-LAW MARRIAGE EXISTING AS OF DECEMBER 31, 2009; AND TO REPEAL SECTION 20-1-360 RELATING TO THE VALIDITY OF A MARRIAGE CONTRACTED WITHOUT THE ISSUANCE OF A LICENSE.

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Read the first time and referred to the Committee on Judiciary.

S. 427 -- Senator Sheheen: A BILL TO AMEND SECTION 56-7-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HANDWRITTEN AND ELECTRONIC TRAFFIC TICKETS, SO AS TO DELETE THE REQUIREMENTS THAT THE VARIOUS COPIES OF THE TRAFFIC TICKETS BE CERTAIN COLORS.

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Read the first time and referred to the Committee on Transportation.

S. 428 -- Senators L. Martin, Verdin, Bright, Alexander and Bryant: A CONCURRENT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO MAKE PERMANENT THE E-VERIFY PROGRAM.

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Senator L.MARTIN spoke on the Resolution.

The Concurrent Resolution was adopted, ordered sent to the House.

S. 429 -- Senators Reese, S. Martin and Bright: A CONCURRENT RESOLUTION TO SALUTE THE NATIONAL BETA CLUB, FOUNDED AT LANDRUM HIGH SCHOOL IN SPARTANBURG COUNTY, ON THE OCCASION OF ITS SEVENTY-FIFTH ANNIVERSARY, AND TO WISH THE CLUB MANY MORE YEARS OF SUCCESS.

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The Concurrent Resolution was adopted, ordered sent to the House.

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S. 430 -- Senator Lourie: A CONCURRENT RESOLUTION TO CONGRATULATE C. DAVID WARREN, EXECUTIVE DIRECTOR OF THE RICHLAND COUNTY PUBLIC LIBRARY, UPON THE OCCASION OF HIS RETIREMENT, TO COMMEND HIM FOR HIS THIRTY YEARS OF DEDICATED SERVICE, AND TO WISH HIM MUCH HAPPINESS AND FULFILLMENT IN ALL HIS FUTURE ENDEAVORS.

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The Concurrent Resolution was adopted, ordered sent to the House.

S. 431 -- Senators Scott, Campbell, Land, Cleary, Lourie, O'Dell, Reese, Hutto, Matthews, Malloy, Ford, Pinckney, Rose, Peeler, Shoopman, Cromer, Anderson, Verdin, Coleman, McGill, Setzler, Alexander, Sheheen, Elliott, Nicholson, Williams, Courson, Thomas, L. Martin, Bright, Ryberg, Leventis, Bryant, Rankin and Knotts: A JOINT RESOLUTION TO CREATE A STUDY COMMITTEE TO BE KNOWN AS THE SOUTH CAROLINA ECONOMIC DEVELOPMENT RESEARCH COMMITTEE TO EXAMINE AND DEVELOP INNOVATIVE SOLUTIONS TO THE ECONOMIC CRISIS FACED BY THIS STATE, TO PROVIDE FOR THE STUDY COMMITTEE'S MEMBERSHIP, AND TO REQUIRE THE STUDY COMMITTEE TO REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GENERAL ASSEMBLY BEFORE JANUARY 1, 2010, AT WHICH TIME THE STUDY COMMITTEE IS ABOLISHED.

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Read the first time and referred to the Committee on Labor, Commerce and Industry.

S. 432 -- Senators Malloy, Knotts and Campsen: A JOINT RESOLUTION TO EXTEND THE TIME IN WHICH THE SENTENCING REFORM COMMISSION, AS ESTABLISHED BY ACT 407 OF 2008, SHALL SUBMIT ITS REPORT TO THE CHAIRMAN OF THE SENATE JUDICIARY COMMITTEE AND THE CHAIRMAN OF THE HOUSE JUDICIARY COMMITTEE FROM JUNE 1, 2009, TO FEBRUARY 1, 2010, AT WHICH TIME THE COMMISSION SHALL BE DISSOLVED.

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Senator MALLOY spoke on the Resolution.

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Read the first time and, on motion of Senator MALLOY, with unanimous consent, S. 432 was ordered placed on the Calendar without reference.

H. 3040 -- Reps. M. A. Pitts, Harrell, Stringer, Parker, Daning, G. M. Smith, Umphlett and T. R. Young: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 54 TO TITLE 2 SO AS TO ESTABLISH A PERMANENT JOINT COMMITTEE OF THE GENERAL ASSEMBLY TO MONITOR, STUDY, AND MAKE APPROPRIATE RECOMMENDATIONS ON ALL ISSUES, LEGISLATION, AND OTHER ACTIONS NECESSARY TO SUSTAIN AND DEVELOP SOUTH CAROLINA'S MILITARY INSTALLATIONS, COMMUNITIES, AND DEFENSE-RELATED BUSINESSES.

Read the first time and referred to the Committee on Judiciary.

H. 3171 -- Reps. J. E. Smith, H. B. Brown, E. H. Pitts, Williams and Jefferson: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 7 TO CHAPTER 5, TITLE 63 SO AS TO ENACT THE "MILITARY PARENT EQUAL PROTECTION ACT", TO PROVIDE THAT A MILITARY PARENT'S MILITARY SERVICE SHALL NOT BE CONSIDERED A CHANGE IN CIRCUMSTANCE FOR PURPOSES OF CHILD CUSTODY AND VISITATION, TO PROVIDE THAT THE CUSTODIAL NONMILITARY PARENT MUST REASONABLY ACCOMMODATE THE MILITARY PARENT'S LEAVE SCHEDULE, TO PROVIDE THAT THE FAMILY COURT MAY HOLD AN EXPEDITED TEMPORARY HEARING TO ENSURE THAT THE MILITARY PARENT HAS ACCESS TO A MINOR CHILD, AND TO PROVIDE THAT AN INCREASE OR DECREASE IN EARNING CAPACITY DUE TO MILITARY SERVICE IS NOT CONSIDERED A PERMANENT CHANGE; AND BY ADDING SECTION 15-1-340 SO AS TO PROVIDE THAT A SERVICE MEMBER ENTITLED TO A STAY PURSUANT TO THE SERVICE MEMBERS CIVIL RELIEF ACT MAY SEEK RELIEF AND PROVIDE TESTIMONY BY ELECTRONIC MEANS UNDER CERTAIN CONDITIONS.

Read the first time and referred to the Committee on Judiciary.

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H. 3378 -- Rep. Cooper: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8-11-192 SO AS TO PROVIDE FOR THE TERMS AND CONDITIONS OF MANDATORY STATE AGENCY FURLOUGH PROGRAMS AND TO DELETE THE PROVISIONS OF PARAGRAPH 89.120, PART IB, OF ACT 310 OF 2008, RELATING TO STATE AGENCY FURLOUGHS.

Read the first time and referred to the Committee on Finance.

H. 3510 -- Rep. Duncan: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND SOUTH CAROLINA'S FUTURE FARMERS OF AMERICA (FFA) MEMBERS AND ALL WHO SUPPORT, PROMOTE, AND ENCOURAGE THESE OUTSTANDING AGRICULTURAL EDUCATION STUDENTS, AND JOIN WITH THEM IN OBSERVANCE OF NATIONAL FFA WEEK, FEBRUARY 21-28, 2009.

The Concurrent Resolution was adopted, ordered returned to the House.

H. 3512 -- Reps. Bales, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR RESERVE DEPUTY JOSEPH P. ARNOT, OF RICHLAND COUNTY, UPON THE OCCASION OF HIS RETIREMENT, TO COMMEND HIM FOR EIGHT YEARS OF

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DEDICATED VOLUNTEER SERVICE WITH THE RICHLAND COUNTY SHERIFF'S DEPARTMENT, AND TO WISH HIM MUCH HAPPINESS AND FULFILLMENT IN ALL HIS FUTURE ENDEAVORS.

The Concurrent Resolution was adopted, ordered returned to the House.

H. 3513 -- Rep. Hiott: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE PICKENS HIGH SCHOOL "LADY BLUE FLAME" VOLLEYBALL TEAM FOR ITS OUTSTANDING SEASON AND FOR CAPTURING THE 2008 CLASS AAA STATE CHAMPIONSHIP, AND TO HONOR THE TEAM'S EXCEPTIONAL PLAYERS, COACH, AND STAFF.

The Concurrent Resolution was adopted, ordered returned to the House.

H. 3548 -- Reps. J. E. Smith, Limehouse, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE EXTRAORDINARY EFFORTS OF THE MANY STATE WORKERS AND VOLUNTEERS WHO ARE WORKING TIRELESSLY AROUND THE CLOCK TO PRESERVE THE HISTORIC AND GALLANT USS LAFFEY (DD-724) FOR HER SURVIVING VETERANS AND COUNTLESS ADMIRERS.

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The Concurrent Resolution was adopted, ordered returned to the House.

THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.

THIRD READING BILLS

The following Joint Resolutions were read the third time and ordered sent to the House of Representatives:

S. 409 -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE CLEMSON UNIVERSITY, STATE CROP PEST COMMISSION, RELATING TO DESIGNATION OF ASIAN CITRUS PYSLLID AS PLANT PEST AND QUARANTINE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4039, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

S. 410 -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE CLEMSON UNIVERSITY, STATE CROP PEST COMMISSION, RELATING TO PLUM POX VIRUS QUARANTINE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4001, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

SECOND READING BILL

The following Bill, having been read the second time, was ordered placed on the Third Reading Calendar:

S. 268 -- Senator McConnell: A BILL TO AMEND CHAPTER 8, TITLE 6, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BUILDING CODES ENFORCEMENT OFFICERS, SO AS TO ESTABLISH A "SPECIAL INSPECTOR" OR "SPECIAL INSPECTION AGENCY" TO PERFORM BUILDING INSPECTIONS IN ONE OR MORE CONSTRUCTION TRADE DISCIPLINES, AND TO PROVIDE THE LICENSING PROCEDURE TO REQUIRE AUTHORIZATION FOR PERFORMING THESE INSPECTIONS FROM THE SOUTH CAROLINA BUILDING

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CODES COUNCIL AND THE DEPARTMENT OF LABOR,
LICENSING AND REGULATION.

AMENDMENT PROPOSED, OBJECTION

S. 132 -- Senators Sheheen and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39-5-175 SO AS TO PROVIDE THAT A LENDER WHO DELIVERS AN UNSOLICITED CHECK TO A PERSON MUST DISCLOSE THAT THE CHECK SECURES A LOAN, THE TERMS OF THE LOAN, AND NOTICE THAT BY NEGOTIATING THE CHECK THE RECIPIENT HAS ENTERED INTO A LOAN AGREEMENT, TO PROVIDE PROTECTION AND RECOURSE FOR INTENDED PAYEES IF AN UNSOLICITED CHECK IS CASHED FRAUDULENTLY, AND TO PROVIDE THAT A VIOLATION OF THIS SECTION IS AN UNFAIR TRADE PRACTICE AND SUBJECT TO APPROPRIATE PENALTIES AND ENFORCEMENT.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the previously proposed amendment by Senators FORD and KNOTTS.

Senator KNOTTS explained the amendment.

Senator L. MARTIN spoke on the amendment.

Senator L. MARTIN moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 14; Nays 26

AYES

Bright	Bryant	Campsen
Davis	Hayes	<i>Martin, L.</i>
<i>Martin, S.</i>	Massey	Mulvaney
Peeler	Ryberg	Shoopman
Thomas	Verdin	

Total--14

NAYS

Alexander	Anderson	Campbell
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[SJ]

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Cleary	Coleman	Courson
Cromer	Fair	Ford
Grooms	Jackson	Knotts
Land	Leatherman	Lourie
Malloy	Matthews	McConnell
McGill	Nicholson	Reese
Rose	Scott	Setzler
Sheheen	Williams	

Total--26

The Senate refused to table the amendment. The question then was the adoption of the amendment.

Senator L. MARTIN spoke on the amendment.

Senator HAYES objected to further consideration of the Bill.

AMENDED, AMENDMENT PROPOSED, CARRIED OVER

S. 184 -- Senators McConnell and Ford: A BILL TO AMEND SECTION 40-27-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A PERSON WHO BUYS JUNK, SO AS TO REQUIRE A PERSON WHO BUYS JUNK THAT CONSISTS OF TWENTY-FIVE POUNDS OF SCRAP METAL OR VEHICLE PARTS TO KEEP WITH THE RECORD OF PURCHASE A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT ISSUED PICTURE IDENTIFICATION CARD THAT SHOWS THE SELLER'S NAME AND ADDRESS; TO AMEND SECTION 40-27-40, RELATING TO PENALTIES FOR VIOLATING PROVISIONS OF THE JUNK DEALER ARTICLE, SO AS TO INCREASE THE FINE FROM A MAXIMUM OF ONE HUNDRED DOLLARS TO FIVE HUNDRED DOLLARS AND TO ESTABLISH THAT EACH VIOLATION CONSTITUTES A SEPARATE OFFENSE; TO AMEND SECTION 56-5-5670, RELATING TO A DEMOLISHER PURCHASING OR ACQUIRING A VEHICLE TO DEMOLISH, SO AS TO REQUIRE A DEMOLISHER THAT ACQUIRES A VEHICLE OR VEHICLE PARTS WITH A TOTAL WEIGHT OF TWENTY-FIVE POUNDS OR MORE TO KEEP A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT ISSUED

[SJ]

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PICTURE IDENTIFICATION CARD THAT SHOWS THE SELLER'S NAME AND ADDRESS AND TO ESTABLISH THAT A VIOLATION OF THOSE PROVISIONS IS A MISDEMEANOR WITH A FINE NO MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE OR NOT EXCEEDING FIVE THOUSAND DOLLARS FOR THE SAME SET OF TRANSACTIONS OR IMPRISONED FOR NO MORE THAN SIXTY DAYS, WITH EACH VIOLATION CONSTITUTING A SEPARATE OFFENSE; AND TO AMEND SECTION 56-5-5945, RELATING TO A DEMOLISHER OBTAINING A VEHICLE TITLE, SO AS TO REQUIRE A DEMOLISHER WHO PURCHASES OR ACQUIRES A VEHICLE OR VEHICLE PART WITH A TOTAL WEIGHT OF TWENTY-FIVE OR MORE POUNDS TO KEEP A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT PICTURE IDENTIFICATION CARD THAT SHOWS THE PERSON'S NAME AND ADDRESS AND THE YEAR, MAKE, MODEL, AND IDENTIFICATION NUMBER OF THE VEHICLE, IF AVAILABLE, ALONG WITH ANY OTHER IDENTIFYING FEATURES, AND TO PROVIDE A VIOLATION CONSTITUTES A MISDEMEANOR WITH A FINE NO MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE OR NO MORE THAN FIVE THOUSAND DOLLARS FOR THE SAME SET OF TRANSACTIONS OR IMPRISONED FOR NO MORE THAN SIXTY DAYS, OR BOTH, AND TO ESTABLISH THAT EACH VIOLATION CONSTITUTES A SEPARATE OFFENSE.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the previously proposed amendment by Senator RYBERG.

Senator RYBERG proposed the following amendment (BBM\9165CM09), which was adopted:

Amend the bill as and if amended, by adding the following appropriately numbered SECTIONS:

/ SECTION __. Section 56-5-5850 of the 1976 Code is amended to read:

Section 56-5-5850. (A) When any vehicle is left unattended on a highway or on other public or private property without the consent of the owner or person in control of the property, an officer may place a colored tag on the vehicle which is notice to the owner, the person in

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possession of the vehicle, or any lienholder that it may be considered to be derelict or abandoned and is subject to forfeiture to the State.

(B) The colored tag serves as the only legal notice that the vehicle will be moved to a designated place to be sold if the vehicle is not removed by the owner or person in control of the vehicle. The vehicle must be removed within the following times from the date the tag is placed on the vehicle:

- (1) forty-eight hours if it is located on a highway, or
- (2) seven days if it is located on other public or private property.

(C) A vehicle that has had at least two colored tags previously placed on it is an abandoned vehicle for purposes of this article and may be removed immediately by a law enforcement agency to a designated place to be sold.

(D) Abandoned or derelict vehicles must be disposed of pursuant to Sections 29-15-10 and 56-5-5635.

SECTION __. Section 57-27-20(a) of the 1976 Code is amended to read:

(a) The term “junk” shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, junked, dismantled, or wrecked automobiles, trucks and other motor vehicles, or parts ~~thereof~~ of them, iron, steel, and other old or scrap ferrous or nonferrous material.

SECTION __. Chapter 27, Title 57 of the 1976 Code is amended by adding:

Section 57-27-57. It is unlawful for a junkyard owner to allow motor vehicles to be parked on a highway adjacent to its property. /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

The amendment was adopted.

Senator MATTHEWS proposed the following amendment (JUD0184.008):

Amend the bill, as and if amended, page 2, by striking lines 26-38, and inserting:

/ “Section 40-27-10. Any person buying junk shall keep a book ~~which~~ that he shall keep open to the inspection of all persons, wherein he shall set down the name and address, city and street, of every person

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selling junk and an itemized statement of all junk bought from such person and the date of purchase. Any person buying junk that consists of a catalytic converter or twenty-five pounds or more of scrap metal or vehicle parts, other than nonferrous metals, as defined by Section 16-17-680, shall keep with the record of purchase a photocopy of the seller's driver's license or other government issued picture identification card that shows the seller's name and address, and the person must make payment to the seller by means of a check mailed to the seller's address as shown on the seller's driver's license or other government issued picture identification card or to the seller's physical business address. Any person buying junk that consists of nonferrous metals is subject to the provisions of Section 16-17-680." /

Amend the bill further, as and if amended, page 3, by striking lines 36-41, and inserting:

/ (C) A demolisher who purchases a vehicle, catalytic converter, or parts of a vehicle with a total weight of twenty-five pounds or more must make payment to the seller by means of a check mailed to the seller's address as shown on the seller's driver's license or other government issued picture identification card or to the seller's physical business address.

(D) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined no more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for no more than sixty days, or both. Each violation constitutes a separate offense."/

Amend the bill further, as and if amended, page 4, by striking lines 28-33, and inserting:

/ (c) A demolisher who purchases a vehicle, catalytic converter, or parts of a vehicle with a total weight of twenty-five pounds or more must make payment to the seller by means of a check mailed to the seller's address as shown on the seller's driver's license or other government issued picture identification card or to the seller's physical business address.

(d) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined no more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for no more than sixty days, or both. Each violation constitutes a separate offense." /

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Renumber sections to conform.
Amend title to conform.

Senator MATTHEWS explained the amendment.

On motion of Senator L. MARTIN, the Bill was carried over.

HOUSE CONCURRENCES

S. 421 -- Senators Sheheen and Lourie: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE HONORABLE MARY Y. CLARK, OF KERSHAW COUNTY, FOR HER OUTSTANDING ACHIEVEMENTS AS MAYOR OF CAMDEN, HER COMMITMENT TO THE CITIZENS OF THAT CITY, AND HER SUPPORT OF THE ARTS, EDUCATION, AND BUSINESS COMMUNITIES.

Returned with concurrence
Received as information

S. 422 -- Senator Jackson: A CONCURRENT RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA GENERAL ASSEMBLY UPON THE PASSING OF WALLACE BYRD, OF RICHLAND COUNTY, AND TO EXTEND THE DEEPEST SYMPATHY TO HIS FAMILY AND MANY FRIENDS.

Returned with concurrence
Received as information

THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.

MOTION ADOPTED

On motion of Senator L. MARTIN, the Senate agreed to dispense with the Motion Period.

THE SENATE PROCEEDED TO THE INTERRUPTED DEBATE.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED
AMENDED, READ THE SECOND TIME**

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S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54 OF THE 1976 CODE, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS, TO ESTABLISH A SOUTH CAROLINA STATE PORTS ADVISORY BOARD, AND SET THE MEMBERSHIP, DUTIES, AND RESPONSIBILITIES OF THE ADVISORY BOARD; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2, RELATING TO PORTS AUTHORITY MANAGEMENT, TO PROVIDE THAT THE BOARD OF DIRECTORS MUST HIRE AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR'S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54-3-140(5), TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS; TO AMEND SECTION 54-3-140, RELATING TO THE POWERS OF THE PORTS AUTHORITY, BY ADDING TWO NEW ITEMS THAT REQUIRE A LONG-RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN AND TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC-PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS; TO AMEND SECTION 54-3-1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, AND TO PROVIDE THAT COPIES OF THE STATEMENT MUST BE FORWARDED TO THE ADVISORY COMMITTEE AND THE GENERAL ASSEMBLY; TO AMEND

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ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54-3-1060, TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND MUST MAINTAIN ON ITS INTERNET WEBSITE A COPY OF EACH MONTHLY CREDIT CARD STATEMENT FOR ALL CREDIT CARDS MAINTAINED BY THE AUTHORITY; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13, RELATING TO LEGISLATIVE OVERSIGHT, TO REQUIRE REGULAR OVERSIGHT REVIEW OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR.

The Senate proceeded to a consideration of the Bill, the question being the adoption of Amendment No. P-1A (Doc. No. 351R010.GFM) proposed by Senator McCONNELL and previously printed in the Journal of February 12, 2009:

Senator McCONNELL explained the amendment.

RECESS

At 12:38 P.M., with Senator McCONNELL retaining the floor, on motion of Senator GROOMS, with unanimous consent, the Senate recessed from business.

At 1:08 P.M., the Senate resumed.

Senator McCONNELL resumed speaking on the amendment.

ACTING PRESIDENT PRESIDES

At 1:21 P.M., Senator HAYES assumed the Chair.

Senator McCONNELL resumed speaking on the amendment.

Senator McCONNELL asked unanimous consent to make a motion that Amendment No. P-1B be substituted for Amendment No. P-1A.

There was no objection.

Amendment No. P-1A was withdrawn.

Amendment No. P-1B

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Senators McCONNELL, FORD and SETZLER proposed the following Amendment No. P-1B (351R025.GFM), which was withdrawn:

Amend the committee amendment, as and if amended, page [351-3], by striking lines 1 - 13 and inserting:

/ (B) In addition to the abilities and experience required in subsection (A), each board member must possess a background of at least five years in any one or any combination of the following fields of expertise:

- (a) maritime shipping;
- (b) labor related to maritime shipping;
- (c) overland shipping by truck or rail, or both;
- (d) international commerce;
- (e) finance, economics, or statistics;
- (f) accounting;
- (g) engineering; or
- (h) law; or

(i) business management from serving as a chief executive officer, president, or managing director of a business or any upper level management position with a business that is equivalent in duties and responsibilities to the positions listed in this item. /

Amend the committee amendment further, as and if amended, page [351-4], by striking lines 28 - 37 and inserting:

/ (D) Nothing in this article gives rise to a cause of action against a member of the board of directors or any decision of the board of directors regarding duties of the individual director or the board of directors concerning port operations or development. Willful failure of the board or any individual member of the board to discharge his duties as required by this article may be considered by the Governor in determining whether to reappoint a board member or in the confirmation proceedings of that board member. /

Amend the committee amendment further, as and if amended, by striking Section 54-3-100 in its entirety, starting on page [351-5], line 38, and ending on page [351-6], line 43.

Amend the committee amendment further, as and if amended, page [351-8], by striking lines 17 - 27 and inserting:

/ SECTION ____. Section 54-3-1040 of the 1976 Code is amended to read:

“Section 54-3-1040. At least once in each year the Authority authority shall publish once in some newspaper published in Charleston

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County a complete detailed statement of all moneys received and disbursed by the ~~Authority~~ authority during the preceding year. The statement must also be forwarded to the Chairman of the Senate Transportation Committee and the Chairman of the House of Representatives Ways and Means Committee. Such statement shall also show the several sources from which such funds were received and the balance on hand at the time of publishing the statement and shall show the complete financial condition of the ~~Authority~~ authority.”

SECTION ____ Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54-3-115. The authority shall take all action necessary to expeditiously develop a port in Jasper County in accordance with the Intergovernmental Agreement for Development of a Jasper Ocean Terminal on the Savannah River within the State of South Carolina that was entered into between the South Carolina State Ports Authority, the Georgia Ports Authority, and the Georgia Department of Transportation dated on January 27, 2008. In determining whether the development of a Jasper Port is proceeding in an expeditious manner, the board must consider whether timelines or benchmarks included in either the Intergovernmental Agreement or amendments to it or other agreement with a partner to develop the port have been or will be met in a timely manner. A determination that a delay in the planning or construction of the port is reasonable must be based on an objective analysis of all available empirical data and expert opinion, as well as a comparison of the construction timelines of ports of similar size and expected capacity. If it is determined that a partner to an agreement to develop the port is not meeting its obligations that will result in the port not being developed in an expeditious manner, then the authority must take all available and necessary action to compel the partner to meet its obligations and, if necessary, terminate the agreement and transfer to the authority the assets and right to develop the port. The authority also shall take all action necessary and as may be requested from time to time by the committees in the House of Representatives and the Senate in connection with the State of South Carolina and the State of Georgia to enter into an Interstate Compact to operate a Jasper port on or before December 31, 2010, as such compact is generally outlined in the Intergovernmental Agreement. In connection with the development of a port in Jasper County, the authority shall make specific inquiries regarding the merits of using private capital to finance the construction of that port to a greater extent than historically has been used by the

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Georgia Ports Authority and the South Carolina State Ports Authority in connection with their existing port operations.”

SECTION _____. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54-3-117. The authority shall take all action necessary to expeditiously complete construction of a container terminal in North Charleston. ” /

Amend the committee amendment further, as and if amended, page [351-8], after line 27, by adding:

/ Amend the bill, as and if amended, page 9, by striking lines 1 - 9 and inserting:

// construction, equipping, maintaining, and operation of the state’s harbors and seaports to maximize their economic benefit to the State. The plan must be revised at least every five years, to reflect and account for changing conditions. The long-range plan must be submitted to the Senate Transportation Committee and the House of Representatives Ways and Means Committee for consideration and comment prior to its final adoption by the board. The board must address each recommendation made by the committees in its final report; // /

Renumber sections to conform.

Amend title to conform.

Senator McCONNELL explained the amendment.

Senator LEVENTIS spoke on the amendment.

Senator McCONNELL asked unanimous consent to make a motion that Amendment No. P-1C be substituted for Amendment No. P-1B.

There was no objection.

Amendment No. P-1B was withdrawn.

Amendment No. P-1C

Senators McCONNELL, SETZLER and FORD proposed the following Amendment No. P-1C (351R026.GFM), which was adopted:

Amend the committee amendment, as and if amended, page [351-3], by striking lines 1 - 13 and inserting:

/ (B) In addition to the abilities and experience required in subsection (A), each board member must possess a background of at

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least five years in any one or any combination of the following fields of expertise:

- (a) maritime shipping;
- (b) labor related to maritime shipping;
- (c) overland shipping by truck or rail, or both;
- (d) international commerce;
- (e) finance, economics, or statistics;
- (f) accounting;
- (g) engineering; or
- (h) law; or
- (i) business management from serving as a chief executive officer, president, or managing director of a business or any upper level management position with a business that is equivalent in duties and responsibilities to the positions listed in this item. /

Amend the committee amendment further, as and if amended, page [351-4], by striking lines 28 - 37 and inserting:

/ (D) Nothing in this article gives rise to a cause of action against a member of the board of directors or any decision of the board of directors regarding duties of the individual director or the board of directors concerning port operations or development. Willful failure of the board or any individual member of the board to discharge his duties as required by this article may be considered by the Governor in determining whether to reappoint a board member or in the confirmation proceedings of that board member. /

Amend the committee amendment further, as and if amended, by striking Section 54-3-100 in its entirety, starting on page [351-5], line 38, and ending on page [351-6], line 43.

Amend the committee amendment further, as and if amended, page [351-8], by striking lines 17 - 27 and inserting:

/ SECTION _____. Section 54-3-1040 of the 1976 Code is amended to read:

“Section 54-3-1040. At least once in each year the ~~Authority~~ authority shall ~~publish once in some newspaper published in Charleston County~~ forward to the Chairman of the Senate Transportation Committee and the Chairman of the House of Representatives Ways and Means Committee and conspicuously posted on the authority’s internet website a complete detailed statement of all moneys received and disbursed by the Authority during the preceding year. Such statement shall also show the several sources from which such funds were received and the balance on hand at the time of publishing the

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statement and shall show the complete financial condition of the Authority authority.”

SECTION ____ Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54-3-115. The authority shall take all action necessary to expeditiously develop a port in Jasper County in accordance with the Intergovernmental Agreement for Development of a Jasper Ocean Terminal on the Savannah River within the State of South Carolina that was entered into between the South Carolina State Ports Authority, the Georgia Ports Authority, and the Georgia Department of Transportation dated on January 27, 2008. In determining whether the development of a Jasper Port is proceeding in an expeditious manner, the board must consider whether timelines or benchmarks included in either the Intergovernmental Agreement or amendments to it or other agreement with a partner to develop the port have been or will be met in a timely manner. A determination that a delay in the planning or construction of the port is reasonable must be based on an objective analysis of all available empirical data and expert opinion, as well as a comparison of the construction timelines of ports of similar size and expected capacity. If it is determined that a partner to an agreement to develop the port is not meeting its obligations that will result in the port not being developed in an expeditious manner, then the authority must take all available and necessary action to compel the partner to meet its obligations and, if necessary, terminate the agreement and transfer to Jasper County the assets and right to develop the port. The authority also shall take all action necessary and as may be requested from time to time by the committees in the House of Representatives and the Senate in connection with the State of South Carolina and the State of Georgia to enter into an Interstate Compact to operate a Jasper port on or before December 31, 2010, as such compact is generally outlined in the Intergovernmental Agreement. In connection with the development of a port in Jasper County, the authority shall make specific inquiries regarding the merits of using private capital to finance the construction of that port to a greater extent than historically has been used by the South Carolina State Ports Authority in connection with their existing port operations.”

SECTION ____ Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

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“Section 54-3-117. The authority shall take all action necessary to expeditiously complete construction of a container terminal in North Charleston. ” /

Amend the committee amendment further, as and if amended, page [351-8], after line 27, by adding:

/ Amend the bill, as and if amended, page 9, by striking lines 1 - 9 and inserting:

// construction, equipping, maintaining, and operation of the state’s harbors and seaports to maximize their economic benefit to the State. The plan must be revised at least every five years, to reflect and account for changing conditions. The long-range plan must be submitted to the Senate Transportation Committee and the House of Representatives Ways and Means Committee for consideration and comment prior to its final adoption by the board. The board must address each recommendation made by the committees in its final report; // /

Amend the committee amendment further, as and if amended, page [351-8], after line 27, by adding:

/ Amend the bill, as and if amended, page 3, by striking lines 30 - 35 and inserting:

// Section 54-3-50. Members of the board of directors may be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, incapacity, a breach of duty required by Section 54-3-80, or entering into a conflict of interest transaction prohibited by Section 54-3-90. // /

Renumber sections to conform.

Amend title to conform.

Senator McCONNELL explained the amendment.

The amendment was adopted.

Amendment No. P-2B

Senators CLEARY and McGILL proposed the following Amendment No. P-2B (351R012.GEC), which was laid on the table:

Amend the committee amendment as and if amended, on Page [351-6], by striking line 13 and inserting:

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/ (3) Of the eleven members of the advisory board, at least one member must be a member of the Georgetown County maritime community.

(4) The Governor may only remove members of the /

Renumber sections to conform.

Amend title to conform.

Senator GROOMS spoke on the amendment.

Senator GROOMS moved to lay the amendment on the table.

The amendment was laid on the table.

Amendment No. P-4

Senators CAMPSSEN and SHEHEEN proposed the following Amendment No. P-4 (351R008.GEC), which was laid on the table:

Amend the bill, as and if amended, on Page [351-2], by striking lines 22 - 27 and inserting:

/ Section 54-3-50. The Governor may remove up to four members of the board at will during his tenure as Governor. The other members of the board may only be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, incapacity, a breach of duty required by Section 54-3-100, or entering into a conflict of interest transaction prohibited by Section 54-3-90. /

Renumber sections to conform.

Amend title to conform.

Senator CAMPSSEN explained the amendment.

PRESIDENT PRESIDES

At 12:17 P.M., the PRESIDENT assumed the Chair.

Senator CAMPSSEN resumed explaining the amendment.

Senator McCONNELL argued contra to the adoption of the amendment.

Senator McCONNELL moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 25; Nays 17

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AYES

Alexander	Anderson	Campbell
Coleman	Grooms	Hayes
Jackson	Knotts	Land
Leatherman	Leventis	Lourie
Malloy	<i>Martin, L.</i>	Matthews
McConnell	McGill	Nicholson
O'Dell	Pinckney	Rankin
Reese	Scott	Setzler
Williams		

Total--25

NAYS

Bright	Bryant	Campsen
Cleary	Courson	Cromer
Davis	Fair	<i>Martin, S.</i>
Massey	Mulvaney	Peeler
Rose	Ryberg	Shoopman
Thomas	Verdin	

Total--17

The amendment was laid on the table.

Amendment No. P-5

Senators CAMPSSEN and SHEHEEN proposed the following Amendment No. P-5 (351R009.GEC), which was laid on the table:

Amend the committee amendment, as and if amended, on Page [351-2], by striking lines 22 - 27 and inserting:

/ Section 54-3-50. The Governor may remove up to three members of the board at will during his tenure as Governor. The other members of the board may only be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, incapacity, a breach of duty required by Section 54-3-70, or entering into a conflict of interest transaction prohibited by Section 54-3-80. /

Re-number sections to conform.

Amend title to conform.

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Senator CAMPSSEN explained the amendment.

Senator GROOMS argued contra to the adoption of the amendment.

Senator CAMPSSEN spoke on the amendment.

Senator McCONNELL spoke on the amendment.

Senator ROSE spoke on the amendment.

Senator McCONNELL moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 28; Nays 15

AYES

Alexander	Anderson	Campbell
Coleman	Fair	Ford
Grooms	Hayes	Jackson
Knotts	Land	Leatherman
Leventis	Lourie	Malloy
<i>Martin, L.</i>	Matthews	McConnell
McGill	Nicholson	O'Dell
Peeler	Pinckney	Rankin
Reese	Scott	Setzler
Williams		

Total--28

NAYS

Bright	Bryant	Campsen
Cleary	Courson	Cromer
Davis	<i>Martin, S.</i>	Massey
Mulvaney	Rose	Ryberg
Shoopman	Thomas	Verdin

Total--15

The amendment was laid on the table.

Amendment No. P-15

Senator ROSE proposed the following Amendment No. P-15 (351R022.MTR), which was withdrawn:

[SJ]

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Amend the Committee Report, as and if amended, page [351-6], by adding after line 43:

/ Section 54-3-105. Each member of the board and officer of the authority must maintain a written log of all contact with the board member or officer initiated by a member or staff of the General Assembly or the Governor or his staff that includes the identity of the person making the contact, the date and time of the contact, and the reason for and subject matter discussed during the contact. The written log required by this section is considered a public record for purposes of Section 30-4-10, et seq. /

Re-number sections to conform.

Amend title to conform.

Senator ROSE explained the amendment.

On motion of Senator ROSE, with unanimous consent, the amendment was withdrawn.

Amendment No. P-16

Senator ROSE proposed the following Amendment P-16 (351R016.MTR), which was laid on the table:

Amend the bill, as and if amended, page 3, by inserting on line 36:

/ Section 54-3-55. Members of the board of directors shall serve without compensation but shall receive mileage and subsistence authorized by law for members of boards, commissions, and committees./

Re-number sections to conform.

Amend title to conform.

Senator ROSE explained the amendment.

Senator GROOMS moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 25; Nays 18

AYES

Anderson	Campbell	Cleary
Coleman	Ford	Grooms
Hutto	Knotts	Land

[SJ]

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Leatherman	Leventis	Lourie
Malloy	Massey	Matthews
McConnell	McGill	Nicholson
O'Dell	Pinckney	Rankin
Reese	Scott	Setzler
Williams		

Total--25

NAYS

Alexander	Bright	Bryant
Campsen	Courson	Cromer
Davis	Fair	Hayes
<i>Martin, L.</i>	<i>Martin, S.</i>	Mulvaney
Peeler	Rose	Ryberg
Shoopman	Thomas	Verdin

Total--18

The amendment was laid on the table.

Amendment No. P-17

Senator ROSE proposed the following Amendment No. P-17 (351R028.MTR), which was laid on the table:

Amend the bill, as and if amended, on Page 3, by striking lines 30-35 and inserting:

/ Section 54-3-50. The Governor may remove up to three members of the board at will during his tenure as Governor but no more than one member during any one year. The other members of the board may only be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, incapacity, a breach of duty required by Section 54-3-70, or entering into a conflict of interest transaction prohibited by Section 54-3-80. /

Renumber sections to conform.

Amend title to conform.

Senator ROSE explained the amendment.

Senator McCONNELL moved to lay the amendment on the table.

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The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 28; Nays 15

AYES

Alexander	Anderson	Campbell
Cleary	Coleman	Elliott
Fair	Ford	Grooms
Hayes	Hutto	Knotts
Land	Leatherman	Lourie
Malloy	<i>Martin, L.</i>	Matthews
McConnell	McGill	Nicholson
O'Dell	Pinckney	Rankin
Reese	Scott	Setzler
Williams		

Total--28

NAYS

Bright	Bryant	Campsen
Courson	Cromer	Davis
<i>Martin, S.</i>	Massey	Mulvaney
Peeler	Rose	Ryberg
Shoopman	Thomas	Verdin

Total--15

The amendment was laid on the table.

Amendment No. P-18

Senator RYBERG proposed the following amendment (351R027.WGR), which was laid on the table:

Amend the bill, as and if amended, page 3, by striking lines 4 - 9 and inserting:

/ Section 54-3-20. (A) The members of the board shall be appointed by the Governor, with the advice and consent of the Senate, for terms of ~~seven~~ four years each and until their successors shall have been appointed, screened, and have qualified. In the event of a

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vacancy, however caused, a successor shall be appointed in the manner of original appointment for the unexpired term. /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

Senator GROOMS moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 23; Nays 19

AYES

Alexander	Campbell	Elliott
Ford	Grooms	Hayes
Knotts	Land	Leatherman
Leventis	Lourie	Malloy
<i>Martin, L.</i>	Matthews	McConnell
McGill	Nicholson	O'Dell
Pinckney	Reese	Scott
Setzler	Williams	

Total--23

NAYS

Bright	Bryant	Campsen
Cleary	Coleman	Cromer
Davis	Fair	Hutto
<i>Martin, S.</i>	Massey	Mulvaney
Peeler	Rankin	Rose
Ryberg	Shoopman	Thomas
Verdin		

Total--19

The amendment was laid on the table.

The question then was the adoption of the amendment proposed by the Committee on Transportation.

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The Committee on Transportation proposed the following amendment (351R001.LKG), which was adopted:

Amend the bill as and if amended, by striking SECTION 1 in its entirety and inserting:

/ SECTION 1. Article 1, Chapter 3, Title 54 of the 1976 Code is amended to read:

“ARTICLE 1.

CREATION AND ORGANIZATION

Section 54-3-10. ~~The~~ There is created the South Carolina State Ports Authority, ~~is hereby created consisting of a~~ The governing body of the authority is a board of directors consisting of nine members, hereafter referred to as the Authority who shall be responsible for setting policies and direction for the authority so that the authority may achieve its purposes as provided in Section 54-3-130. The powers and duties of the authority shall be exercised by the board. The board may delegate to one or more officers, agents, or employees such powers and duties as it determines are necessary and useful for the effective, efficient operation of the port.

Section 54-3-20. (A) The members of the board shall be appointed by the Governor, with the advice and consent of the Senate, for terms of seven years each and until their successors shall have been appointed, screened, and have qualified. In the event of a vacancy, however caused, a successor shall be appointed in the manner of original appointment for the unexpired term.

(B) A candidate for appointment to the board may not be confirmed by the Senate or serve on the board, even in an interim capacity, until he is found qualified by the Senate Transportation Committee as possessing the abilities and experience and meet the minimum qualifications contained in Section 54-3-60.

Section 54-3-30. ~~They~~ The board shall elect one of ~~their number~~ its members to serve as chairman, and one member to serve as vice-chairman, and shall also elect a one member to serve as secretary. The board shall meet upon the call of its chairman and a majority of its members shall constitute a quorum for the transaction of its business.

Section 54-3-40. ~~The Authority board~~ shall select one of its members to serve as its treasurer. ~~The Authority treasurer shall require give a surety bond of such appointee in such in an amount as the Authority may fix~~ fixed by the board and the premium ~~thereon~~ on the bond shall be paid by the ~~Authority~~ authority as a necessary expense ~~of the Authority.~~

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Section 54-3-50. Members of the board of directors may only be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, incapacity, a breach of duty required by Section 54-3-70, or entering into a conflict of interest transaction prohibited by Section 54-3-80.

Section 54-3-60. (A) Each member of the board must possess abilities and experience that enable them to make valuable contributions to the conduct of the authority's business. These abilities include substantial business skills and experience but are not limited to:

(1) general knowledge of the history, purpose, and operations of the South Carolina Ports Authority;

(2) the ability to interpret legal and financial documents and information so as to further the activities and affairs of the authority;

(3) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations related to the operation of a port; and

(4) with the assistance of counsel, the ability to understand and apply judicial and administrative decisions as they relate to the activities and affairs of a port.

(B) In addition to the abilities and experience required in subsection (A), each board member must possess a background of at least five years in any one or any combination of the following fields of expertise:

(a) maritime shipping;

(b) organized labor related to maritime shipping;

(c) overland shipping by truck or rail, or both;

(d) international commerce;

(e) finance, economics, or statistics;

(f) accounting;

(g) engineering;

(h) law; or

(i) environmental policy, law, or permitting.

(C) When making appointments to the board, the Governor shall ensure that the diverse interests represented by the port are represented. To the greatest extent possible, the Governor shall ensure that the membership of the board includes a certified public accountant, a member representing port users such as manufacturers, shippers, and importers, a member representing the state's economic development interests, a member who has served as a corporate chief executive

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officer, and members from the various regions of the State. Consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.

Section 54-3-70. The board must conduct an annual performance review of the executive director and submit a written report of its findings to the Governor and the General Assembly. A draft of the performance review must be submitted to the executive director, and the executive director must be provided an opportunity to be heard by the board of directors before the board submits the final draft to the Governor and the General Assembly.

Section 54-3-80. (A) A member of the board of directors shall discharge his duties as a director, including his duties as a member of a committee:

- (1) in good faith;
- (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) in a manner he reasonably believes to be in the best interests of the authority. As used in this chapter, best interests means a balancing of the following:

(a) achieving the purposes of the authority as provided in Section 54-3-130;

(b) preservation of the financial integrity of the South Carolina State Ports Authority and its ongoing operations;

(c) economic development and job attraction and retention;

(d) consideration given to diminish or mitigate any negative effect port operations or expansion may have upon the environment, transportation infrastructure, and quality of life of residents in communities located near existing or proposed port facilities; and

(e) exercise of the powers of the authority in accordance with good business practices and the requirements of applicable licenses, laws, and regulations.

(B) In discharging his duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (1) one or more officers or employees of the State whom the director reasonably believes to be reliable and competent in the matters presented;

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(2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or

(3) a committee of the board of directors of which he is not a member if the director reasonably believes the committee merits confidence.

(C) A director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

(D) A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this section.

(E) An action against a director for failure to perform the duties imposed by this section must be commenced within three years after the cause of action has accrued, or within two years after the time when the cause of action is discovered or should reasonably have been discovered, whichever occurs sooner. This limitations period does not apply to breaches of duty which have been concealed fraudulently.

Section 54-3-90. (A) A conflict of interest transaction is a transaction with the South Carolina State Ports Authority in which a director has a direct or indirect interest. A conflict of interest transaction is not voidable by the authority solely because of the director's interest in the transaction if any one of the following is true:

(1) the material facts of the transaction and the director's interest were disclosed or known to the board or a committee of the board, and the board or a committee of the board authorized, approved, or ratified the transaction; or

(2) the transaction was fair to the authority.

If item (1) has been accomplished, the burden of proving unfairness of any transaction covered by this section is on the party claiming unfairness. If item (1) has not been accomplished, the party seeking to uphold the transaction has the burden of proving fairness.

(B) For purposes of this section, a director has an indirect interest in a transaction if:

(1) another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction;

(2) another entity of which he is a director, officer, member or trustee is a party to the transaction and the transaction is or should be considered by the board; or

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(3) another entity of which an immediate family member has a material financial interest or in which an immediate family member is a general partner, director, officer, member, or trustee is a party to the transaction and the transaction is or should be considered by the board.

(C) For purposes of subsection (A)(1), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors, or on the committee, who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (A)(1) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

Section 54-3-100. (A) There is established the South Carolina State Ports Authority Advisory Board. The advisory board shall be comprised of eleven members appointed to four-year terms.

(1) One member must be appointed by the Governor upon recommendation of each of the following:

- (1) the South Carolina Stevedores Association;
- (2) the Charleston Harbor Pilots Association;
- (3) the International Longshoreman's Association;
- (4) the Propeller Club of Charleston;
- (5) the Maritime Association of South Carolina;
- (6) the South Carolina Manufacturer's Alliance;
- (7) the South Carolina Chamber of Commerce;
- (8) the South Carolina Trucking Association; and
- (9) the Class 1 Railroad Companies providing freight service

to the port.

(2) Two members of the advisory board must be appointed by the Governor from a community in the vicinity of a port or a proposed port.

(3) The Governor may only remove members of the advisory board for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity.

(B) The advisory board has the following duties and responsibilities:

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(1) make an annual written report to the Governor and the General Assembly concerning the performance of port management, the board of directors, governance, and operations. A draft of the report must be submitted to the executive director and the board of directors. The executive director and the board of directors must be provided an opportunity to be heard by the advisory board before the advisory board submits the final report to the Governor and the General Assembly;

(2) assist the board with formulating and updating the long range port development and capital financing plan as required by Section 54-3-140();

(3) make recommendations to the Senate Transportation Committee and House of Representatives Ways and Means Committee; and

(4) consult and advise the authority board of directors on any and all matters referred by the board.

(C) The advisory board may also assess the qualifications of appointees to the authority board of directors and forward written assessments to the Senate Transportation Committee for consideration during appointee screening.

(D) The advisory board is a public body for the purposes of Chapter 4, Title 30, the Freedom of Information Act.

(E) The advisory board must meet regularly and as necessary to fulfill its duties and responsibilities. The advisory board must meet with the board of directors at least semi-annually.”

Amend the bill further, as and if amended, page 10, by striking line 2 and inserting:

/ includes a complete record of all appropriated funds expended over one hundred /

Amend the bill further, as and if amended, page 10, by striking lines 21 - 31.

Amend the bill further, as and if amended, page 8, by striking line 1 and inserting:

/ Section 54-3-102. The board of directors shall employ an /

Amend the bill further, as and if amended, page 8, by striking line 7 and inserting:

/ Section 54-3-104. (A) The executive director is charged with /

Amend the bill further, as and if amended, page 8, by striking line 23 and inserting:

/ Section 54-3-106. Compensation for the executive director and /

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Amend the bill as and if amended, page 9, by striking line 3 and inserting:

/ State, including, but not limited to Charleston and Georgetown. The plan must be revised at least every five years, to reflect /

Amend the bill further, as and if amended, page 12, by adding appropriately numbered new SECTIONS to read:

/ SECTION _____. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54-3-155. Without prior approval from the Budget and Control Board, the authority may not sell any real property or any buildings, terminals, or other permanent structures, excluding equipment, appurtenant to real property that are or may be used to carry out the purposes of the authority as provided in Section 54-3-130.”

SECTION _____. Section 54-3-110 of the 1976 Code is amended to read:

“Section 54-3-110. Through the ~~Authority~~ authority the State may engage in promoting, developing, constructing, equipping, maintaining and operating the harbors or seaports within the State, namely Charleston; and Georgetown ~~and Port Royal~~, and works of internal improvement incident thereto, including the acquisition or construction, maintenance and operation at such seaports of harbor watercraft and terminal railroads, as well as other kinds of terminal facilities, and belt line roads or highways and bridges thereon and other bridges and causeways necessary or useful in connection therewith.”

SECTION _____. Section 54-3-130(1) of the 1976 Code is amended to read:

“(1) To develop and improve the harbors or seaports of Charleston; and Georgetown ~~and Port Royal~~ for the handling of water-borne commerce from and to any part of the State and other states and foreign countries;”

SECTION _____. Section 54-3-130(8) of the 1976 Code is amended to read:

“(8) To promote, develop, construct, equip, maintain and operate a harbor or harbors within this State on the Savannah River, and in furtherance thereof have all of the powers, purposes and authority given by law to the Authority in reference to the harbors and seaports of Charleston; and Georgetown ~~and Port Royal~~; and”

SECTION _____. The terms of the initial South Carolina State Ports Authority Advisory Board members shall be as follows:

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(1) the members appointed from the South Carolina Stevedores Association, the Propeller Club of Charleston, and the Class 1 Railroad Companies shall be appointed to a two year term;

(2) the members appointed from the Charleston Harbor Pilots Association, the South Carolina Manufacturers Alliance, and the South Carolina Trucking Association shall be appointed to a three year term; and

(3) all other members of the advisory board shall be appointed to full four-year terms. /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

ACTING PRESIDENT PRESIDES

At 4:58 P.M., Senator HAYES assumed the Chair.

Amendment No. 5

Senator RYBERG proposed the following Amendment No. 5 (351R032.WGR), which was adopted:

Amend the bill as and if amended, page 3 by striking lines 4 - 9 and inserting:

/ Section 54-3-20. (A) The members of the board shall be appointed by the Governor, with the advice and consent of the Senate, for terms of ~~seven~~ five years each and until their successors shall have been appointed, screened, and have qualified, provided that a board member may only serve in a holdover capacity for a period not to exceed six months. In the event of a vacancy, however caused, a successor shall be appointed in the manner of original appointment for the unexpired term. /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

The amendment was adopted.

Amendment No. 6

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Senators CAMPSER, DAVIS, and COURSON proposed the following Amendment No. 6 (GJK\20127SD09), which was laid on the table:

Amend the bill as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Article 1, Chapter 3, Title 54 of the 1976 Code is amended to read:

“Article 1.

Creation and Organization

Section 54-3-10. (A) The There is created the South Carolina State Ports Authority, which shall be governed by the executive director and a board of directors. is hereby created consisting of a governing body. The board of directors shall consist of nine members, hereafter referred to as the Authority which shall be responsible for setting policies and direction for the authority so that the authority may achieve its mission.

(B) The board shall have the sole power to:

(1) develop a long-range port development and capital financing plan, with a minimum twenty-year forecast period at the time of adoption that provides for the promotion, development, construction, equipping, maintaining, and operation of the state's harbors and seaports to maximize their economic benefit to the State. The plan must be revised at least every five years, to reflect and account for changing conditions.

(2) determine whether utilizing a public-private partnership to achieve the current or proposed operational goals and development is the most advantageous method to the State and would result in the most timely, economical, efficient, and successful fulfillment of the operational goals or completion of the development project;

(3) approve the authority's annual budget;

(4) authorize the sale or purchase of all real property;

(5) enter into contracts with an excess value of five hundred thousand dollars;

(6) adopt, alter or repeal its own bylaws, rules and policies governing the manner in which the authority's business may be transacted and in which the powers granted to it may be enjoyed and may provide for the appointment of such committees, and the functions thereof, as it may deem necessary or expedient in facilitating of the authority's business.

Section 54-3-20. (A) The members of the board shall be appointed by the Governor, with the advice and consent of the Senate,

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terms of seven years each and until their successors shall have been appointed, screened, and have qualified. In the event of a vacancy, however caused, a successor shall be appointed in the manner of original appointment for the unexpired term.

(B) The appointments made by the Governor must be transmitted to the Joint Transportation Review Committee. The Joint Transportation Review Committee must determine whether the appointee meets the qualifications in Section 54-3-60 and report its findings to the General Assembly and the Governor. Until the Joint Transportation Review Committee finds a gubernatorial appointee qualified, the appointee must not take the oath of office and the full rights and privileges and powers of the office shall not vest.

Section 54-3-30. ~~They~~ The board shall elect one of ~~their number~~ its members to serve as chairman, ~~and one member to serve as vice chairman~~ vice chairman, and ~~shall also elect a~~ one member to serve as secretary. The board shall meet upon the call of its chairman and a majority of its members shall constitute a quorum for the transaction of its business.

Section 54-3-40. ~~The Authority board~~ The Authority board shall select one of its members to serve as ~~its~~ treasurer. The ~~Authority treasurer~~ Authority treasurer shall ~~require~~ give a surety bond ~~of such appointee in such an amount as the Authority may fix~~ fixed by the board and the premium ~~thereon~~ on the bond shall be paid by the ~~Authority~~ authority as a necessary expense ~~of the Authority~~.

Section 54-3-50. Members of the board of directors may be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, incapacity, a breach of duty required by Section 54-3-70, or entering into a conflict of interest transaction prohibited by Section 54-3-80.

Section 54-3-60. (A) Each member of the board must possess abilities and experience that enable them to make valuable contributions to the conduct of the authority's business. These abilities include substantial business skills and experience but are not limited to:

(1) general knowledge of the history, purpose, and operations of the South Carolina Ports Authority;

(2) the ability to interpret legal and financial documents and information so as to further the activities and affairs of the authority;

(3) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations related to the operation of a port; and

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(4) with the assistance of counsel, the ability to understand and apply judicial and administrative decisions as they relate to the activities and affairs of a port.

(B) In addition to the abilities and experience required in subsection (A), each board member must possess a background of at least five years in any one or any combination of the following fields of expertise:

- (1) maritime shipping;
- (2) labor related to maritime shipping;
- (3) overland shipping by truck or rail, or both;
- (4) international commerce;
- (5) finance, economics, or statistics;
- (6) accounting;
- (7) engineering;
- (8) law; or
- (9) business management from serving as a chief executive officer, president, or managing director of a business or any upper level management position with a business that is equivalent in duties and responsibilities to the positions listed in this item.

(C) When making appointments to the board, the Governor shall ensure that that the diverse interests represented by the port are represented. To the greatest extent possible, the Governor shall ensure that the membership of the board includes a certified public accountant, a member representing port users such as manufacturers, shippers, and importers, a member representing the state's economic development interests, a member who has served as a corporate chief executive officer, and members from the various regions of the State. Consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.

Section 54-3-70. (A) A member of the board of directors shall discharge his duties as a director, including his duties as a member of a committee:

- (1) in good faith;
- (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) in a manner he reasonably believes to be in the best interests of the authority. As used in this chapter, best interests means a balancing of the following:

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(a) preservation of the financial integrity of the South Carolina State Ports Authority and its ongoing operations;

(b) economic development and job attraction and retention;

(c) consideration given to diminish or mitigate any negative effect port operations or expansion may have upon the environment, transportation infrastructure, and quality of life of residents in communities located near existing or proposed port facilities; and

(d) exercise of the powers of the authority in accordance with good business practices and the requirements of applicable licenses, laws, and regulations.

(B) In discharging his duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) one or more officers or employees of the State whom the director reasonably believes to be reliable and competent in the matters presented;

(2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or

(3) a committee of the board of directors of which he is not a member if the director reasonably believes the committee merits confidence.

(C) A director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

(D) Nothing in this article gives rise to a cause of action against a member of the board of directors or any decision of the board of directors regarding duties of the individual director or the board of directors concerning port operations or development. Wilful failure of the board or any individual member of the board to discharge his duties as required by this article may be considered by the Governor in determining whether to reappoint a board member, or in the confirmation proceedings of that board member.

Section 54-3-80. (A) A conflict of interest transaction is a transaction with the South Carolina State Ports Authority in which a director has a direct or indirect interest. A conflict of interest transaction is not voidable by the authority solely because of the director's interest in the transaction if any one of the following is true:

(1) the material facts of the transaction and the director's interest were disclosed or known to the board or a committee of the board, and

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the board or a committee of the board authorized, approved, or ratified the transaction; or

(2) the transaction was fair to the authority.

If item (1) has been accomplished, the burden of proving unfairness of any transaction covered by this section is on the party claiming unfairness. If item (1) has not been accomplished, the party seeking to uphold the transaction has the burden of proving fairness.

(B) For purposes of this section, a director has an indirect interest in a transaction if:

(1) another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction;

(2) another entity of which he is a director, officer, member or trustee is a party to the transaction and the transaction is or should be considered by the board; or

(3) another entity of which an immediate family member has a material financial interest or in which an immediate family member is a general partner, director, officer, member, or trustee is a party to the transaction and the transaction is or should be considered by the board.

(C) For purposes of subsection (A)(1), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors, or on the committee, who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (A)(1) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

Section 54-3-85. The Governor shall appoint an Executive Director of Port Operations who shall serve at the pleasure of the Governor. A person appointed to this position shall possess practical and successful business and executive ability and be knowledgeable in the field of port operations.

Section 54-3-90. (A) The executive director is charged with the affirmative duty to carry out the mission, policies, and direction of the authority as established by the board of directors, to administer the day-to-day affairs of the authority, to direct the implementation of the

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long-range port development and capital financing plan adopted by the board, and may exercise all powers belonging to the authority set forth in Section 54-3-140 of this chapter within the guidelines and policies established by the board. He must represent the authority in its dealings with other state agencies, local governments, special districts, and the federal government.

(B) The executive director shall appoint a director for each division contained in the organizational structure established by the board of directors, who shall serve at the pleasure of the executive director.

(C) For each division established by the organizational structure created by the board, the executive director must employ personnel and prescribe their duties, powers, and functions as he considers necessary and as may be authorized or directed by the board of directors.

Section 54-3-95. The board must conduct an annual performance review of the executive director and submit a written report of its findings to the Governor and the General Assembly. A draft of the performance review must be submitted to the executive director, and the executive director must be provided an opportunity to be heard by the board of directors before the board submits the final draft to the Governor and the General Assembly."

SECTION 2. Section 54-3-110 of the 1976 Code is amended to read:

"Section 54-3-110. Through the authority the State may engage in promoting, developing, constructing, equipping, maintaining, and operating the harbors or seaports within the State, namely Charleston, and Georgetown ~~and Port Royal~~, and works of internal improvement incident thereto, including the acquisition or construction, maintenance, and operation at such seaports of harbor watercraft and terminal railroads, as well as other kinds of terminal facilities, and belt line roads or highways and bridges thereon and other bridges and causeways necessary or useful in connection therewith."

SECTION 3. (A) Section 54-3-130(1) of the 1976 Code is amended to read:

"(1) To develop and improve the harbors or seaports of Charleston, and Georgetown ~~and Port Royal~~ for the handling of water-borne commerce from and to any part of the State and other states and foreign countries;"

(B) Section 54-3-130(8) of the 1976 Code is amended to read:

"(8) To promote, develop, construct, equip, maintain and operate a harbor or harbors within this State on the Savannah River, and in

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furtherance thereof have all of the powers, purposes, and authority given by law to the Authority in reference to the harbors and seaports of Charleston, and Georgetown and Port Royal; and”

SECTION 4. (A) Section 54-3-140(5) of the 1976 Code is amended to read:

“(5) Shall appoint and employ and dismiss at pleasure such employees as may be selected by the ~~board~~ executive director of the authority and fix and pay the compensation thereof;”

(B) Section 54-3-140(11) of the 1976 Code which reads as follows is deleted.

~~“(11) May adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the powers granted to it may be enjoyed and may provide for the appointment of such committees, and the functions thereof, as the Authority may deem necessary or expedient in facilitating its business;”~~

SECTION 5. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54-3-115. The authority shall take all action necessary to expeditiously develop a port in Jasper County in accordance with the Intergovernmental Agreement for Development of a Jasper Ocean Terminal on the Savannah River within the State of South Carolina that was entered into between the South Carolina State Ports Authority, the Georgia Ports Authority, and the Georgia Department of Transportation dated on January 27, 2008. In determining whether the development of a Jasper Port is proceeding in an expeditious manner, the board must consider whether timelines or benchmarks included in either the Intergovernmental Agreement or amendments to it or other agreement with a partner to develop the port have been or will be met in a timely manner. A determination that a delay in the planning or construction of the port is reasonable must be based on an objective analysis of all available empirical data and expert opinion, as well as a comparison of the construction timelines of ports of similar size and expected capacity. If it is determined that a partner to an agreement to develop the port is not meeting its obligations that will result in the port not being developed in an expeditious manner, then the authority must take all available and necessary action to compel the partner to meet its obligations and, if necessary, terminate the agreement and transfer to Jasper County the assets and right to develop the port. The authority also shall take all action necessary and as may be requested from time

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to time by the committees in the House of Representatives and the Senate in connection with the State of South Carolina and the State of Georgia to enter into an Interstate Compact to operate a Jasper port on or before December 31, 2010, as such compact is generally outlined in the Intergovernmental Agreement. In connection with the development of a port in Jasper County, the authority shall make specific inquiries regarding the merits of using private capital to finance the construction of that port to a greater extent than historically has been used by the South Carolina State Ports Authority in connection with their existing port operations.”

SECTION 6. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54-3-117. The authority shall take all action necessary to expeditiously complete construction of a container terminal in North Charleston.

SECTION 7. Section 54-3-140 of the 1976 Code is amended by adding appropriately numbered new items to read:

“() shall develop a long-range port development and capital financing plan, with a minimum twenty-year forecast period at the time of adoption that provides for the promotion, development, construction, equipping, maintaining, and operation of the state’s harbors and seaports to maximize their economic benefit to the State. The plan must be revised at least every five years, to reflect and account for changing conditions. The long-range plan must be submitted to the Senate Transportation Committee, the House of Representatives Ways and Means Committee, for consideration and comment prior to its final adoption by the board. The board must address each recommendation made by the committees in its final report;

() shall review port operations and proposals for future operations and construction to determine whether utilizing a public-private partnership to achieve the current or proposed operational goals and development is the most advantageous method to the State and would result in the most timely, economical, efficient, and successful fulfillment of the operational goals or completion of the development project.”

SECTION 8. Section 54-3-1040 of the 1976 Code is amended to read:

“Section 54-3-1040. At least once in each year the authority shall publish once in some newspaper published in Charleston County forward to the Chairman of the Senate Transportation Committee and

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the Chairman of the House of Representatives Ways and Means Committee and conspicuously posted on the authority's Internet website a complete detailed statement of all ~~moneys~~ monies received and disbursed by the authority during the preceding year. Such statement also shall ~~also~~ show the several sources from which such funds were received and the balance on hand at the time of publishing the statement and shall show the complete financial condition of the authority."

SECTION 9. This act takes effect upon approval by the Governor./
Renumber sections to conform.
Amend title to conform.

Senator CAMPSSEN explained the amendment.

RECESS

At 5:40 P.M., with Senator CAMPSSEN retaining the floor, on motion of Senator PEELER, with unanimous consent, the Senate recessed from business not to exceed two minutes.

At 5:45 P.M., the Senate resumed.

Senator MARTIN moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 29; Nays 14

AYES

Alexander	Anderson	Campbell
Cleary	Cromer	Elliott
Fair	Ford	Grooms
Hayes	Knotts	Land
Leatherman	Leventis	Lourie
Malloy	<i>Martin, L.</i>	Matthews
McConnell	McGill	Nicholson
O'Dell	Peeler	Pinckney
Rankin	Reese	Scott
Setzler	Williams	

Total--29

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NAYS

Bright	Bryant	Campsen
Courson	Davis	<i>Martin, S.</i>
Massey	Mulvaney	Rose
Ryberg	Sheheen	Shoopman
Thomas	Verdin	

Total--14

The amendment was laid on the table.

Amendment No. 2A

Senators DAVIS and ROSE proposed the following Amendment No. 2A (351R033.TD), which was adopted:

Amend the bill as and if amended, by adding an appropriately numbered new SECTION to read:

/ SECTION ____.(A) A study committee is established to study public private partnerships regarding ports in South Carolina. The study committee is composed of nine members. The President Pro Tempore shall appoint three Senators, the Speaker of the House of Representatives shall appoint three members of the House of Representatives, and the Governor shall appoint three citizens with relevant professional experience. Members of the study committee at may only receive the mileage reimbursement as provided by law for members of state boards, committees, and commissions.

(B) In conducting its study, the study committee shall:

(1) examine different operating and financing mechanisms for addressing port operations and development, including both public and private approaches to these efforts. This work must include an examination of the current operating and management structure of the State-owned port facilities;

(2) identify the total cost of future development of South Carolina's ports, including the refurbishment and enhancement of existing and planned future port facilities;

(3) determine the surface transportation impacts of the import and export of trade through South Carolina ports and the gaps in today's surface transportation. Included within this determination must be the impact of future development of the ports;

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(4) recommend the priorities of addressing the related surface transportation needs throughout the State by 2015, 2025, and 2035; and

(5) hold public hearings to solicit public comment on the work of the joint study committee.

(C) Any vacancies in the membership of the study committee must be filled in the manner of original appointment.

(D) The study committee shall file a report of its findings and recommendations to the Governor and the General Assembly on or before March 1, 2010, at which time the study committee is dissolved.

(E) The chairman of the Senate Transportation Committee, the chairman of the House of Representatives Education and Public Works Committee and, upon request, the state ports authority shall provide staffing for the study committee.

(F) All costs incurred by the study committee must be paid by the State Ports Authority. /

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the amendment.

The amendment was adopted.

Amendment No. 4A

Senator RYBERG proposed the following Amendment No. 4A (351R036.WGR), which was adopted:

Amend the bill, as and if amended, page 9, by striking lines 4 - 9 and inserting:

/ and account for changing conditions. The long-range plan must be submitted to the General Assembly. /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG moved that the amendment be adopted.

The amendment was adopted.

Clerk's Conforming Amendment

The following amendment (351R037.LKG) incorporates and conforms all the adopted amendments:

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Amend the bill as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Article 1, Chapter 3, Title 54 of the 1976 Code is amended to read:

“ARTICLE 1

CREATION AND ORGANIZATION

Section 54-3-10. ~~The~~ There is created the South Carolina State Ports Authority. is hereby created consisting of a The governing body of the authority is a board of directors consisting of nine members, hereafter referred to as the Authority who shall be responsible for setting policies and direction for the authority so that the authority may achieve its mission. The powers and duties of the authority shall be exercised by the board. The board may delegate to one or more officers, agents, or employees such powers and duties as it determines are necessary and proper for the effective, efficient operation of the port.

Section 54-3-20. (A) The members of the board shall be appointed by the Governor, with the advice and consent of the Senate, for terms of seven five years each and until their successors shall have been appointed, screened, and have qualified, provided that a board member may only serve in a holdover capacity for a period not to exceed six months. In the event of a vacancy, however caused, a successor shall be appointed in the manner of original appointment for the unexpired term.

(B) A candidate for appointment to the board may not be confirmed by the Senate or serve on the board, even in an interim capacity, until he is found qualified by possessing the abilities and experience and meet the minimum qualifications contained in Section 54-3-60.

Section 54-3-30. ~~They~~ The board shall elect one of their number its members to serve as chairman, and one member to serve as vice-chairman, and shall also elect a one member to serve as secretary. The board shall meet upon the call of its chairman and a majority of its members shall constitute a quorum for the transaction of its business.

Section 54-3-40. ~~The Authority board~~ The Authority board shall select one of its members to serve as its treasurer. The Authority treasurer shall require give a surety bond of such appointee in such an amount as the Authority may fix fixed by the board and the premium thereon on the bond shall be paid by the Authority authority as a necessary expense of the Authority.

Section 54-3-50. Members of the board of directors may be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty

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in office, incapacity, a breach of duty required by Section 54-3-80, or entering into a conflict of interest transaction prohibited by Section 54-3-90.

Section 54-3-60. (A) Each member of the board must possess abilities and experience that enable them to make valuable contributions to the conduct of the authority's business. These abilities include substantial business skills and experience but are not limited to:

(1) general knowledge of the history, purpose, and operations of the South Carolina Ports Authority;

(2) the ability to interpret legal and financial documents and information so as to further the activities and affairs of the authority;

(3) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations related to the operation of a port; and

(4) with the assistance of counsel, the ability to understand and apply judicial and administrative decisions as they relate to the activities and affairs of a port.

(B) In addition to the abilities and experience required in subsection (A), each board member must possess a background of at least five years in any one or any combination of the following fields of expertise:

(a) maritime shipping;

(b) labor related to maritime shipping;

(c) overland shipping by truck or rail, or both;

(d) international commerce;

(e) finance, economics, or statistics;

(f) accounting;

(g) engineering; or

(h) law; or

(i) business management from serving as a chief executive officer, president, or managing director of a business or any upper level management position with a business that is equivalent in duties and responsibilities to the positions listed in this item.

(C) When making appointments to the board, the Governor shall ensure that the diverse interests represented by the port are represented. To the greatest extent possible, the Governor shall ensure that the membership of the board includes a certified public accountant, a member representing port users such as manufacturers, shippers, and importers, a member representing the state's economic development interests, a member who has served as a corporate chief executive

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officer, and members from the various regions of the State. Consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.

Section 54-3-70. The board must conduct an annual performance review of the executive director and submit a written report of its findings to the Governor and the General Assembly. A draft of the performance review must be submitted to the executive director, and the executive director must be provided an opportunity to be heard by the board of directors before the board submits the final draft to the Governor and the General Assembly.

Section 54-3-80. (A) A member of the board of directors shall discharge his duties as a director, including his duties as a member of a committee:

- (1) in good faith;
- (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) in a manner he reasonably believes to be in the best interests of the authority. As used in this chapter, best interests means a balancing of the following:

(a) achieving the purposes of the authority as provided in Section 54-3-130;

(b) preservation of the financial integrity of the South Carolina State Ports Authority and its ongoing operations;

(c) economic development and job attraction and retention;

(d) consideration given to diminish or mitigate any negative effect port operations or expansion may have upon the environment, transportation infrastructure, and quality of life of residents in communities located near existing or proposed port facilities; and

(e) exercise of the powers of the authority in accordance with good business practices and the requirements of applicable licenses, laws, and regulations.

(B) In discharging his duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (1) one or more officers or employees of the State whom the director reasonably believes to be reliable and competent in the matters presented;

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(2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or

(3) a committee of the board of directors of which he is not a member if the director reasonably believes the committee merits confidence.

(C) A director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

(D) Nothing in this article gives rise to a cause of action against a member of the board of directors or any decision of the board of directors regarding duties of the individual director or the board of directors concerning port operations or development. Willful failure of the board or any individual member of the board to discharge his duties as required by this article may be considered by the Governor in determining whether to reappoint a board member or in the confirmation proceedings of that board member.

Section 54-3-90. (A) A conflict of interest transaction is a transaction with the South Carolina State Ports Authority in which a director has a direct or indirect interest. A conflict of interest transaction is not voidable by the authority solely because of the director's interest in the transaction if any one of the following is true:

(1) the material facts of the transaction and the director's interest were disclosed or known to the board or a committee of the board, and the board or a committee of the board authorized, approved, or ratified the transaction; or

(2) the transaction was fair to the authority and its customers.

If item (1) has been accomplished, the burden of proving unfairness of any transaction covered by this section is on the party claiming unfairness. If item (1) has not been accomplished, the party seeking to uphold the transaction has the burden of proving fairness.

(B) For purposes of this section, a director has an indirect interest in a transaction if:

(1) another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction;

(2) another entity of which he is a director, officer, member or trustee is a party to the transaction and the transaction is or should be considered by the board; or

(3) another entity of which an immediate family member has a material financial interest or in which an immediate family member is a

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general partner, director, officer, member, or trustee is a party to the transaction and the transaction is or should be considered by the board.

(C) For purposes of subsection (A)(1), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors, or on the committee, who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (A)(1) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

SECTION 2. Chapter 3, Title 54 of the 1976 Code is amended by adding:

“ARTICLE 2

PORTS AUTHORITY MANAGEMENT

Section 54-3-102. The board of directors shall employ an Executive Director of Port Operations who shall serve at the pleasure of the board. A person employed to this position shall possess practical and successful business and executive ability and must be knowledgeable in the field of port operations.

Section 54-3-104. (A) The executive director is charged with the affirmative duty to carry out the mission, policies, and direction of the authority as established by the board of directors. He must represent the authority in its dealings with other state agencies, local governments, special districts, and the federal government.

(B) The executive director shall appoint a director for each division contained in the organizational structure established by the board of directors, who shall serve at the pleasure of the executive director.

(C) For each division established by the organizational structure created by the board, the executive director must employ personnel and prescribe their duties, powers, and functions as he considers necessary and as may be authorized or directed by the board of directors.

Section 54-3-106. Compensation for the executive director and division directors shall be approved by the board of directors in a public vote. For the purpose of this section, compensation includes, but

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is not limited to, annual salary, bonuses, severance, and vehicle allowances.”

SECTION 3. Section 54-3-140(5) of the 1976 Code is amended to read:

~~“(5) Shall appoint and employ and dismiss at pleasure such employees as may be selected by the board of the Authority and fix and pay the compensation thereof~~ Shall adopt an organizational structure for authority operations implemented by the executive director;”

SECTION 4. Section 54-3-140 of the 1976 Code is amended by adding appropriately numbered new items to read:

“() Shall develop a long-range port development and capital financing plan, with a minimum twenty-year forecast period at the time of adoption that provides for the promotion, development, construction, equipping, maintaining, and operation of the state’s harbors and seaports to maximize their economic benefit to the State, including, but not limited to Charleston and Georgetown. The plan must be revised at least every five years, to reflect and account for changing conditions. The long-range plan must be submitted to the General Assembly;

() Shall review port operations and proposals for future operations and construction to determine whether utilizing a public-private partnership to achieve the current or proposed operational goals and development is the most advantageous method to the State and would result in the most timely, economical, efficient, and successful fulfillment of the operational goals or completion of the development project.”

SECTION 5. Section 54-3-1040 of the 1976 Code is amended to read:

“Section 54-3-1040. At least once ~~in~~ each year the ~~Authority~~ authority shall ~~publish once in some newspaper published in Charleston County~~ forward to the Chairman of the Senate Transportation Committee and the Chairman of the House of Representatives Ways and Means Committee and conspicuously post on the authority’s internet website a complete detailed statement of all moneys received and disbursed by the ~~Authority~~ authority during the preceding year. Such statement shall also show the several sources from which such funds were received and the balance on hand at the time of publishing the statement and shall show the complete financial condition of the ~~Authority~~ authority.”

SECTION 6. Article 11, Chapter 3, Title 54 of the 1976 Code is amended by adding:

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“Section 54-3-1060. (A) For the purposes of this section, ‘detailed description of the expenditure’ means a description of an expenditure that enables the reader to distinguish that expenditure from other expenditures and is particular enough in its account of the expenditure that the reader is able to discern the purpose of the expenditure.

(B) The authority shall maintain a transaction register that includes a complete record of all appropriated funds expended over one hundred dollars, from whatever source for whatever purpose. The register must be prominently posted on the authority’s internet website and made available for public viewing and downloading.

(1)(a) The register must include for each expenditure:

- (i) the transaction amount;
- (ii) the name of the payee; and
- (iii) a statement providing a detailed description of the expenditure.

(b) The register must not include an entry for salary, wages, or other compensation paid to individual employees.

(c) The register must not include any information that can be used to identify an individual employee.

(d) The register must be accompanied by a complete explanation of any codes or acronyms used to identify a payee or an expenditure.

(2) The register must be searchable and updated at least once a month. Each monthly register must be maintained on the internet website for at least five years.”

SECTION 7. Chapter 3, Title 54 of the 1976 Code is amended by adding:

“ARTICLE 13

LEGISLATIVE OVERSIGHT

Section 54-3-1300. (A) The Senate Transportation Committee and the House of Representatives Ways and Means Committee must each conduct an oversight review of the authority and its operations at least once every two years. The committees may coordinate their reviews to reduce duplication.

(1) The oversight reviews must consider whether the authority is promoting, developing, constructing, equipping, maintaining, and operating the harbors and seaports of this State in an efficient, effective manner in accordance with all applicable laws and regulations.

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(2) A written report of the findings from each oversight review must be published in the journals of both houses and made available on the General Assembly's internet website.

(B) Each committee may undertake any additional reviews, studies, or evaluations as it considers necessary.

Section 54-3-1310. (A) The oversight report required by this article must at least contain:

(1) a performance review of each member of the board during the previous two years;

(2) a performance review of the South Carolina State Ports Authority Executive Director; and

(3) an evaluation of the actions of the board, sufficient to allow the members of the General Assembly to better judge whether these actions serve the best interests of the citizens of South Carolina, both individual and corporate.

(B) To assist the committees in performing the performance reviews and evaluations required by this article, the committees may develop and distribute, as appropriate, an anonymous and confidential survey evaluating the board members and the executive director. At a minimum, the survey must include the following:

(1) knowledge and application of substantive port issues;

(2) the ability to perceive relevant issues;

(3) absence of influence by political considerations;

(4) absence of influence by identities of labor unions;

(5) courtesy to all persons appearing before the board;

(6) temperament and demeanor in general, preparation for hearings, and attentiveness during hearings; and

(7) any other issue the committee deems appropriate.

Section 54-3-1320. A draft of a board member's and executive director's performance review and the evaluations of the actions of the board, must be submitted to the appropriate party, and that party must be allowed an opportunity to be heard before the committee conducting the oversight review by the performance review or evaluation, as the case may be, is final. The final performance review of a board member must be made a part of the member's record for consideration if the member seeks reelection to the board."

SECTION 8. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

"Section 54-3-155. Without prior approval from the Budget and Control Board, the authority may not sell any real property or any

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buildings, terminals, or other permanent structures, excluding equipment, appurtenant to real property that are or may be used to carry out the purposes of the authority as provided in Section 54-3-130.”

SECTION 9. Section 54-3-110 of the 1976 Code is amended to read:

“Section 54-3-110. Through the ~~Authority~~ authority the State may engage in promoting, developing, constructing, equipping, maintaining, and operating the harbors or seaports within the State, namely Charleston, and Georgetown ~~and Port Royal~~, and works of internal improvement incident thereto, including the acquisition or construction, maintenance and operation at such seaports of harbor watercraft and terminal railroads, as well as other kinds of terminal facilities, and belt line roads or highways and bridges thereon and other bridges and causeways necessary or useful in connection therewith.”

SECTION 10. Section 54-3-130(1) of the 1976 Code is amended to read:

“(1) To develop and improve the harbors or seaports of Charleston, and Georgetown ~~and Port Royal~~ for the handling of water-borne commerce from and to any part of the State and other states and foreign countries;”

SECTION 11. Section 54-3-130(8) of the 1976 Code is amended to read:

“(8) To promote, develop, construct, equip, maintain and operate a harbor or harbors within this State on the Savannah River, and in furtherance thereof have all of the powers, purposes and authority given by law to the authority in reference to the harbors and seaports of Charleston, and Georgetown ~~and Port Royal~~; and”

SECTION 12. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54-3-115. The authority shall take all action necessary to expeditiously develop a port in Jasper County in accordance with the Intergovernmental Agreement for Development of a Jasper Ocean Terminal on the Savannah River within the State of South Carolina that was entered into between the South Carolina State Ports Authority, the Georgia Ports Authority, and the Georgia Department of Transportation dated on January 27, 2008. In determining whether the development of a Jasper Port is proceeding in an expeditious manner, the board must consider whether timelines or benchmarks included in either the Intergovernmental Agreement or amendments to it or other agreement with a partner to develop the port have been or will be met in a timely

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manner. A determination that a delay in the planning or construction of the port is reasonable must be based on an objective analysis of all available empirical data and expert opinion, as well as a comparison of the construction timelines of ports of similar size and expected capacity. If it is determined that a partner to an agreement to develop the port is not meeting its obligations that will result in the port not being developed in an expeditious manner, then the authority must take all available and necessary action to compel the partner to meet its obligations and, if necessary, terminate the agreement and transfer to Jasper County the assets and right to develop the port. The authority also shall take all action necessary and as may be requested from time to time by the committees in the House of Representatives and the Senate in connection with the State of South Carolina and the State of Georgia to enter into an Interstate Compact to operate a Jasper port on or before December 31, 2010, as such compact is generally outlined in the Intergovernmental Agreement. In connection with the development of a port in Jasper County, the authority shall make specific inquiries regarding the merits of using private capital to finance the construction of that port to a greater extent than historically has been used by the South Carolina State Ports Authority in connection with their existing port operations.”

SECTION 13. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54-3-117. The authority shall take all action necessary to expeditiously complete construction of a container terminal in North Charleston. ”

SECTION 14. (A) A study committee is established to study public private partnerships regarding ports in South Carolina. The study committee is composed of nine members. The President Pro Tempore shall appoint three Senators, the Speaker of the House of Representatives shall appoint three members of the House of Representatives, and the Governor shall appoint three citizens with relevant professional experience. Members of the study committee at may only receive the mileage reimbursement as provided by law for members of state boards, committees, and commissions.

(B) In conducting its study, the study committee shall:

(1) examine different operating and financing mechanisms for addressing port operations and development, including both public and private approaches to these efforts. This work must include an

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examination of the current operating and management structure of the State-owned port facilities;

(2) identify the total cost of future development of South Carolina's ports, including the refurbishment and enhancement of existing and planned future port facilities;

(3) determine the surface transportation impacts of the import and export of trade through South Carolina ports and the gaps in today's surface transportation. Included within this determination must be the impact of future development of the ports;

(4) recommend the priorities of addressing the related surface transportation needs throughout the State by 2015, 2025, and 2035; and

(5) hold public hearings to solicit public comment on the work of the joint study committee.

(C) Any vacancies in the membership of the study committee must be filled in the manner of original appointment.

(D) The study committee shall file a report of its findings and recommendations to the Governor and the General Assembly on or before March 1, 2010, at which time the study committee is dissolved.

(E) The chairman of the Senate Transportation Committee, the chairman of the House of Representatives Education and Public Works Committee and, upon request, the state ports authority shall provide staffing for the study committee.

(F) All costs incurred by the study committee must be paid by the State Ports Authority.

SECTION 15. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

The amendment was adopted.

There being no further amendments, the question then was the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 28; Nays 15

AYES

Alexander

Anderson

Campbell

[SJ]

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Cleary	Cromer	Elliott
Fair	Ford	Grooms
Hayes	Knotts	Land
Leatherman	Lourie	Malloy
<i>Martin, L.</i>	Matthews	McConnell
McGill	Nicholson	O'Dell
Peeler	Pinckney	Rankin
Reese	Scott	Setzler
Williams		

Total--28

NAYS

Bright	Bryant	Campsen
Courson	Davis	Leventis
<i>Martin, S.</i>	Massey	Mulvaney
Rose	Ryberg	Sheheen
Shoopman	Thomas	Verdin

Total--15

The Bill was read the second time, passed and ordered to a third reading.

Senator MARTIN moved that the Senate revert to the Motion Period.
There was no objection and the motion was adopted.

THE SENATE REVERTED TO THE MOTION PERIOD.

MADE SPECIAL ORDER

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54 OF THE 1976 CODE, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY

[SJ]

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SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS, TO ESTABLISH A SOUTH CAROLINA STATE PORTS ADVISORY BOARD, AND SET THE MEMBERSHIP, DUTIES, AND RESPONSIBILITIES OF THE ADVISORY BOARD; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2, RELATING TO PORTS AUTHORITY MANAGEMENT, TO PROVIDE THAT THE BOARD OF DIRECTORS MUST HIRE AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR'S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54-3-140(5), TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS; TO AMEND SECTION 54-3-140, RELATING TO THE POWERS OF THE PORTS AUTHORITY, BY ADDING TWO NEW ITEMS THAT REQUIRE A LONG-RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN AND TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC-PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS; TO AMEND SECTION 54-3-1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, AND TO PROVIDE THAT COPIES OF THE STATEMENT MUST BE FORWARDED TO THE ADVISORY COMMITTEE AND THE GENERAL ASSEMBLY; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54-3-1060, TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND MUST MAINTAIN ON ITS INTERNET WEBSITE A COPY OF EACH MONTHLY CREDIT CARD STATEMENT FOR ALL CREDIT CARDS MAINTAINED BY THE AUTHORITY; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13, RELATING TO LEGISLATIVE OVERSIGHT, TO REQUIRE

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REGULAR OVERSIGHT REVIEW OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR.

Senator MARTIN moved that the Bill be made a Special Order.

The Bill was made a Special Order.

RECALLED

H. 3295 -- Reps. Hamilton, Allen, Bedingfield, Cato, Dillard, Nanney, Stringer and Wylie: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAY MISSED ON JANUARY 8, 2009, BY THE STUDENTS OF PARIS ELEMENTARY SCHOOL, TAYLORS ELEMENTARY SCHOOL, AND SEVIER MIDDLE SCHOOL WHEN THE SCHOOLS WERE CLOSED DUE TO A POWER OUTAGE IS EXEMPT FROM THE MAKE-UP REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

Senator FAIR moved that the Bill be recalled from the Committee on Education.

The Bill was recalled from the Committee on Education.

The Bill was placed on the Local and Uncontested Calendar.

MOTION ADOPTED

On motion of Senator McCONNELL, the Senate agreed to dispense with the Motion Period.

Motion to Ratify Adopted

At 5:57 P.M., Senator McCONNELL asked unanimous consent to make a motion to invite the House of Representatives to attend the Senate Chamber for the purpose of ratifying Acts at 11:15 A.M. on Thursday, February 19, 2009.

There was no objection and a message was sent to the House accordingly.

MOTION ADOPTED

On motion of Senator McCONNELL, with unanimous consent, the Senate stood adjourned out of respect to the memory of Captain Louis Douglas Barden of Columbia, S.C. Captain Barden was a member of the S. C. Highway Patrol for 40 years and during his

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tenure he served as chief of security for Governor James B. Edwards from 1975-1979. Captain Bardin was a beloved husband of thirty years to Sandy, devoted father and doting grandfather.

ADJOURNMENT

At 5:58 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 2:00 P.M.

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